



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

March 12, 2010

To: Supervisor Gloria Molina, Chair
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to read "W. T. Fujioka", is written over the printed name of the Chief Executive Officer.

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

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Fourth District

MICHAEL D. ANTONOVICH
Fifth District

SHERIFF DEPARTMENT'S OVERTIME REPORT BACK (ITEM 31A, AGENDA OF DECEMBER 22, 2009)

On December 22, 2009, as a result of the Auditor-Controller's (A-C) release of its audit findings, your Board directed the Chief Executive Office (CEO) to report back on the following:

- Quarterly reviews conducted by the CEO, with the assistance of the A-C, to monitor the overtime usage of high overtime earners where overtime earnings exceed 50 percent of their regular salary. Such reviews should identify any work schedule violations, including all cases where employees work back-to-back double shifts, more than 12 days consecutively, or more than 19 hours in a day.
- Submission of overtime monitoring findings by the Sheriff's Department (Department) timekeeping staff/Unit Managers to the CEO on a quarterly basis for verification and review.
- Review of existing overtime policies and work schedule rules by the CEO, the Department of Human Resources (DHR), the A-C, and the Department, including, but not limited to, the 96 hours per month overtime cap and criteria for when, if any, exceptions for individuals or bureaus may be made.

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- Immediate analysis of the errors identified in this report and the potential recovery of overpayments, correction of underpayments, and adjustment of employee leave balances.

After several meetings with the A-C, and consultations with DHR and the Department, we recommend the following strategies for identifying and implementing additional overtime policies and controls to assist the Department in achieving its goal of reducing overtime usage.

Quarterly Reviews and Submission of Overtime Monitoring Findings

Currently, an overtime earnings report is generated by the Los Angeles County Wide Reporting Database and distributed monthly to all County departments. This report is identified as "Employees with Overtime Earnings Exceeding 50% of Regular Earnings" and includes the employee's name, item number/title, regular earnings to date, overtime earnings to date, and the percentage of overtime earnings to regular earnings. The report was intended to provide departments with another tool to quickly identify potential excessive use of overtime.

Using the overtime earnings report as reference material, in concurrence with the A-C, we recommend the following to be implemented on a quarterly basis:

- CEO and A-C select a sample of employees (a minimum of 25) from the Department's high overtime earners. When selecting the sample, the CEO and A-C will consider several factors, including, but not limited to, the percentage and amount of overtime earnings, item number/title (e.g., Deputy Sheriff, Custody Assistant, non-sworn, etc.), and unit of assignment (e.g., Custody, Homicide Bureau, Transit Services, etc.). In addition, the sample size may be increased based on the review results and/or other identified observations.
- The A-C will review the specified employees and analyze the nature of the overtime inclusive of:
 - Amount of overtime worked at each location, amount billed, and agency billed (where applicable).
 - Number of hours, frequency of days, and reasons employees worked overtime.
 - Identification of all work schedule rule(s) violations and corrective action(s) taken (if applicable).

- The A-C will discuss the audit results and conclusions of their review with Department and CEO.
- A-C will submit its findings to the CEO for final review and consideration.

The CEO will conduct a final review of the A-C findings and will work with the Department if it is deemed that further action is required. The A-C will perform the review and analysis for the first two quarters. The Department will perform (at the CEO and A-C's discretion) all subsequent quarterly reviews. The CEO and the A-C will continue to select the sample of employees and will review and verify the Department's results/conclusions.

The CEO and A-C will also take into consideration that certain employees who have work schedule violations may be sworn staff assigned to bureaus or units that require specialized skills and are sometimes required to respond to unplanned and/or critical events (i.e., in-custody homicides, barricaded suspects, etc.) While the Department indicated that the units make every attempt to schedule their personnel in order to avoid such violations, we recognize that it is sometimes unavoidable.

Identify Source of Overtime Funding

The Department indicates that for the most part, at the end of each fiscal year, their overall budget is balanced by a combination of salary savings, under-expenditures in various employee benefits such as worker's compensation, and over-realization in charges for services revenue. In order to gain a better understanding of how the Department achieves a balanced budget each fiscal year, in addition to reviews of the aforementioned areas, the CEO recommends that the Department identify the source of funding for overtime expenditures that exceed their overtime budget for each budget unit on a quarterly basis. It is further recommended that the Department submit quarterly correspondence that reports this information to your Board.

CEO and DHR Review of Existing Overtime Policies and Work Schedule Rules

In 1996, the Department developed and implemented internal work schedule rules specifying the maximum number of hours employees can work within certain timeframes that included setting an overtime limit of 96 hours per month. In 2006, the overtime restriction was lifted due to manpower shortage and subsequently reinstated in October 2009. The Department's internal work schedule policy also indicates:

- No employee may work more than 12 consecutive days without a day off except when necessary to appear in court;

- No employee shall work more than 19 hours consecutively; and
- No employee may work back-to-back doubles except when necessary to appear in court. A back-to-back double is defined as working a shift of 16 hours or more followed by another 12 hours or more in any two (2) consecutive 24-hour periods.

DHR contacted several neighboring county sheriff agencies, namely Riverside, Orange, and San Bernardino, as well as the Los Angeles and City of New York Police Departments to obtain their overtime policies and were referred to their respective Memorandum of Understanding (MOU). A general analysis was conducted which compared specified areas of the Department's overtime policy against MOUs of the aforementioned agencies. Two counties limit employees from working more than 16 consecutive hours; the Department allows employees to work 19 hours consecutively (Attachment I).

In addition to reviewing each agency's MOU, DHR inquired about their overtime practice or standards in general. The overall response was, for the most part, each law enforcement agency allows their respective divisions discretion over its overtime budget and most divisions use it only as an operational necessity. Divisions are provided flexibility; however, are cautioned to use common sense and should not allow overtime usage when staff is deemed ineffective.

CEO Employee Relations (CEO/ER) Division was asked to review the Department's MOU for overtime policy stipulations. CEO/ER indicates that the MOU adheres to the Fair Labor Standards Act provisions, which require overtime worked by an employee be paid at the premium rate of 1.5 per hour or the employee may instead elect compensatory time off. The MOU is silent, from an operational perspective, as to how overtime is assigned and worked by employees. It is important to note, however, that the Department's overtime policy has been vetted through the consultation process with the effected sworn officers' unions. Any changes to said policy would be subject to a union consultation process.

CEO Risk Management was also asked to comment on the potential impact of high overtime usage. They advised that excessive overtime worked can cause fatigue, which may result in reduced reaction time, errors in decision making and judgment, and other undesirable performance outcomes which may place the County, its employees, and the public at increased risk.

The Department was unable to locate any studies or reports specifically on overtime. However, there was one fairly extensive study, "Tired Cops: The Importance of Managing Police Fatigue" by Bryan Vila, Ph.D., conducted on police fatigue in general.

The study indicated there are many factors that contribute to police fatigue, such as long commutes, shift work, long hours, court appearances, poor sleep due to witnessing traumatic events, and working the night ("graveyard") shift. The study also differentiated between overtime that was ordered (not planned by the employee) and overtime that was voluntary and suggested that the situations be reviewed independently. It noted that when an officer/deputy/employee is mandated to work overtime that they have not mentally and physically prepared for, it has a far greater impact than when the employee signs up ahead of time and has the opportunity to rest in preparation.

The Department also reviewed, on the California Police Chiefs' website, several agencies' overtime policies. Some agencies have a more restrictive policy than the Department, while some mandate a certain period of time between shifts. One agency mandates seven hours off between shifts where staff is required to work 12-hour shifts. Therefore, if an officer gets off from work at 6:00 a.m., goes to court from 8:30 a.m. to 1:00 p.m., he/she cannot report to their normal shift that night until 8:00 p.m. The employee, however, must use their vacation time to cover the hours missed at the beginning of their shift.

The County's overtime policy as outlined in County Code Section 6.15 provides general guidelines for departments. Each department is provided discretion to refine its internal policies and procedures as deemed necessary for more effective overtime use and management.

At this time, the CEO, with concurrence from DHR, recommends that the Department re-examine its internal policy which allows employees to work up to 19 hours consecutively and consider reducing the maximum allowable hours to 16, consistent with Orange and Riverside counties. This recommended change in the Department's policy may lessen the potential risk factor of fatigue. The CEO also concurs with the Department's recommendation to re-evaluate its current overtime limit of 96 hours per month to determine if it should be modified. It is further recommended that the Department ensure that monthly reminders of work schedule rules are sent out to Departmental personnel.

Immediate Analysis of the Errors Identified

Several errors were identified in the A-C's report and are being addressed by the Department. The following provides the Department's corrective actions:

- The Department is working with the A-C Countywide Payroll Division and County Counsel to correct all exceptions identified relative to recoveries of

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overpayments, issuing supplemental warrants for underpayments, and adjusting employee leave benefit balances as necessary.

- The Department's management indicated that Departmental payroll staff has received additional training to ensure correct pay and leave codes are entered into the payroll system.

Should you have any questions, please contact me or your staff may contact Deputy Chief Executive Officer Jackie White, Public Safety, at (213) 893-2374.

WTF:BC:JAW
SW:JV:cc

Attachment

c: Executive Office, Board of Supervisors
County Counsel
Sheriff's Department
Auditor-Controller
Department of Human Resources

Sheriff's OT.bm.031210.doc

County of Los Angeles Sheriff Department and Other Law Enforcement Agencies
Analysis of Overtime Policies

L.A. County Sheriff's Departmental Overtime Policy	L.A. County Sheriff's MOU	Orange County MOU	Riverside County MOU	San Bernardino County MOU	Los Angeles Police Department MOU	City of New York Police Department MOU
No employee shall work more than ninety-six (96) hours of overtime per calendar month (excluding on-call court time) unless Watch Commander approval is obtained	MOU is silent	MOU is silent	MOU is silent	MOU is silent	MOU is silent	MOU is silent. However, management reviews report of employees who work more than 30 hours overtime per month.
No employee may work more than twelve (12) consecutive days without a day off except when necessary to appear in court	MOU is silent	MOU is silent	MOU is silent	MOU is silent	MOU is silent	MOU is silent
No employee shall work more than nineteen (19) hours consecutively.	MOU is silent	Per Article I, Section 1 - Workweek, C. "No employee shall be permitted to work more than sixteen (16) consecutive hours except in an emergency situation."	Not to exceed sixteen (16) hours in any work period	MOU is silent	MOU is silent	MOU is silent
No employee may work back-to-back doubles except when necessary to appear in court. A back-to-back double is defined as working a shift of sixteen (16) hours or more followed by another twelve (12) hours or more in any two (2) consecutive 24-hour periods.	MOU is silent	MOU is silent	MOU is silent	MOU is silent	MOU is silent	MOU is silent